

With respect to prior art, the Examiner has rejected claims 1, 2 and 8 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,765,029 to Rogan ("Rogan"). The Examiner is alleging that Rogan shows all of the features of the Applicants' invention as defined by these claims. Claim 5 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Rogan in view of U.S. Patent No. 5,658,608 to Klefbeck ("Klefbeck"). The Examiner is alleging that the Applicants' invention as defined by these claims would be obvious to one of ordinary skill in the art in view of the combined teachings of these references. Claim 6 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Rogan and Klefbeck in view of U.S. Patent No. 996,449 to Bodenstein ("Bodenstein"). The Examiner is alleging that the Applicants' invention as defined by these claims would be obvious to one of ordinary skill in the art in view of the combined teachings of these references. Applicants thank the Examiner for indicating allowable subject matter in claims 3, 4, 7 and 9 to 14. Applicants however respectfully submit that independent claims 1 and 8 pending in the present application distinguish patentably over the cited prior art for the reasons set forth below.

According to one aspect of the Applicants' invention as defined by independent claim 1, Applicants provide a press for making a food patty including a mould defining a weight that has an opening therethrough. A carrying component has a substantially flat panel and a handle affixed to the flat panel. The flat panel has a generally planar surface to contact a food product to be pressed into a patty. The handle is sized to pass through the opening in the mould to allow the mould to move along the handle. The mould is positionable to overlie the flat panel thereby to facilitate the application of pressure to the food product.

In contrast, Rogan discloses an adjustable food forming device for producing individual patties from food. The device includes a mold cup housing a patty ejector or mold plate. A sleeve extends upwardly from the mold cup. A shaft extends upwardly from the mold plate within the sleeve. The height of the mold plate relative to the base of the mold cup determines the thickness of the patty to be produced. The height is determined by the arrangement of a key protruding from the wall of one of the shaft and sleeve that engages with one of a plurality of keyways provided in the other of the shaft and sleeve.

Klefbeck discloses a device for compacting, forming and separating material that includes a hollow housing sealable at one end by a removeable cap. A cylindrical housing having a threaded exterior is movably mounted on the other end of the housing. A plurality of separating members are slidably positioned within the housing.

Bodenstein discloses a food pressing apparatus having a handle with a loop to facilitate gripping.

Applicants respectfully submit that independent claim 1 distinguishes patentably over the cited prior art either alone or in combination. None of the cited prior art references discloses a food press having a carrying component that includes a substantially flat panel and a handle affixed to the flat panel with the flat panel defining a generally planar surface to contact a food product to be pressed into a patty; and a *mould defining a weight that is moveable along the handle and positionable to overlie the flat panel* thereby to facilitate the application of pressure to the food product.

Rogan fails to teach or suggest a weight moveable along a handle to facilitate the application of pressure to the patty as alleged by the Examiner. The mold cup of Rogan surrounds the mold plate **but does not act as a weight that is moveable to overlie the mold plate** as recited in independent claim 1. The remaining references cited by the Examiner also fail to teach or suggest a press having a mould defining a weight as defined by independent claim 1. Accordingly, Applicants respectfully submit that independent claim 1 distinguishes patentably over the cited prior art and should be allowed.

Since claims 3 to 7 and 18 to 20 are dependent either directly or indirectly on independent claim 1, which is deemed allowable, Applicants respectfully submit that these claims should also be allowed.

Independent claim 8 also defines a food patty press and is believed to distinguish patentably over the cited prior art for the same reasons set forth above. Since claims 9 to 14 and 21 to 23 are dependent either directly or indirectly on independent claim 8, which is deemed allowable, Applicants respectfully submit that these claims should also be allowed.

New independent claim 24 incorporates the subject matter of original claims 1 and 3. Since the Examiner has indicated that claim 3 contains allowable subject matter, Applicants respectfully submit that this claim distinguishes patentably over the prior art and should be allowed. Since claims 25 to 30 are dependent either directly or indirectly on independent claim 24, which is deemed allowable, Applicants respectfully submit that these claims should also be allowed.

New independent claim 31 defines a press for making a food patty including a weight member that has a passage therein and a carrying component having a substantially flat panel and a handle affixed to the flat panel. The flat panel has a generally planar surface to

contact a food product to be pressed into a patty. The handle is sized to pass through the passage to allow the weight member to move along the handle. The weight member is positionable to overlie the flat panel thereby to facilitate the application of pressure to the food product. The handle and the flat panel are rotatable with respect to the weight member. This facilitates the formation of patties using the press and the separation of the press from patties thus formed.

Applicants respectfully submit that none of the prior art references cited by the Examiner teaches or suggests a press having a carrying component including a substantially flat panel and a handle affixed to the flat panel; and a weight member to overlie the flat panel wherein the flat panel and handle are rotatable relative to the weight member. Accordingly, Applicants respectfully submit that this claim distinguishes patentably over the prior art and should be allowed. Since claims 32 and 33 are dependent either directly or indirectly on independent claim 30, which is deemed allowable, Applicants respectfully submit that these claims should also be allowed.

In view of the above, it is now believed the application is in order for allowance and action to that end is respectfully requested.

Enclosed is a Petition for a 3-month extension of time along with a check for \$465.00 to cover the fee under 37 CFR 1.17 (small entity). Also enclosed is a check for \$123.00 to cover the fee under 37 CFR 1.16 (small entity) for nine claims in excess of 20 total claims and for one independent claim in excess of three independent claims.

No other fee is believed due for this Response and Amendment. Nevertheless, should the Commissioner determine that any other fee is due, the fee may be charged to Deposit Account No. 03-2775 (Connolly Bove Lodge & Hutz LLP).

Respectfully submitted,  
**Loukritia Balkos et al**



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Date: February 26, 2003

Enclosure

Petition for 3-month Extension  
\$465.00 check  
\$123.00 check  
Appendix Showing Marked-Up Specification  
Appendix Showing Marked-Up Claims

**Appendix Showing Marked-Up Specification**

On page 1, please insert the following heading and paragraph before the first paragraph and heading:

**Cross-Related Application**

The present application claims the benefit of U.S. Provisional Patent Application

Serial No. 60/178,326 filed on January 27, 2000.

**Appendix Showing Marked-Up Claims**

Please cancel claims 2 and 15 to 17 without prejudice or disclaimer.

Please amend claims 1, 3 to 7 and 9 to 14 as follows:

1. (Amended) A press for making a food patty, comprising:

a mould having an opening therethrough and defining a weight; and

a carrying component having a substantially flat panel and a handle affixed to said flat panel, said flat panel having a generally planar surface to contact a food product to be pressed into a patty, said handle being sized to pass through said opening to allow said mould to move along said handle, said mould being moveable along said handle and positionable to overlie said flat panel [and] thereby to facilitate the application of pressure to said food product.

3. (Amended) A press [as defined in] according to claim [2] 1 wherein said mould is in the form of a disc having top and bottom generally circular surfaces bridged by a smooth, peripheral sidewall and wherein said flat panel corresponds generally in shape to said bottom surface.

4. (Amended) A press [as defined in] according to claim 3 wherein said opening is positioned at the centre of said disc and wherein said handle is centrally affixed to a surface of said flat panel opposite said generally planar surface.

5. (Amended) A press [as defined in] according to claim [2] 1 wherein said mould and carrying component are formed of stainless steel.

6. (Amended) A press [as defined in] according to claim 5 further including a loop affixed to a free distal end of said handle.

7. (Amended) A press [as defined in] according to claim 3 wherein said disc has a diameter [slightly] greater than the diameter of said panel.

9. (Amended) A press [as defined in] according to claim 8 wherein said weight member is in the form of a disc having top and bottom generally circular surfaces bridged by a smooth, peripheral sidewall and wherein said flat panel corresponds generally in shape to said bottom surface.

10. (Amended) A press [as defined in] according to claim 9 wherein said opening is positioned at the centre of said disc and wherein said upstanding member is centrally affixed to said flat panel.

11. (Amended) A press [as defined in] according to claim 10 wherein said weight member, upstanding member and flat panel are formed of stainless steel.

12. (Amended) A press [as defined in] according to claim 11 further including a loop affixed to a free distal end of said upstanding member.

13. (Amended) A press [as defined in] according to claim 12 wherein said loop is elongate and acts as a retainer to inhibit said weight member from being removed from said [tubular] upstanding member.

14. (Amended) A press [as defined in] according to claim 9 wherein said disc has a diameter [slightly] greater than the diameter of said panel.